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19 April 1956

MEMORANDUM FOR RECORD**SUBJECT: Legal Authority for Operating Vending Machines**

1. The Comptroller General has ruled on this question twice. In 32 Comp. Gen. 124 (B-111086, 29 August 1952) he denied the authority of the FBI to operate vending machines for the benefit of employee welfare groups. In 32 Comp. Gen. 124 (B-112040, 10 December 1952), he distinguished his earlier opinion, telling the Post Office Department,

"However, in the matter under consideration it appears that contractual arrangements for the installment purchase, installation, and operation of vending machines at various post offices were made by postal employee groups with administrative approval, and with the understanding that any proceeds received by the employee groups from the operation of the machines could be retained by them. While the legal authority of the administrative officials to have agreed to such an arrangement is doubtful, it has been concluded that this Office will interpose no objection to the continued use of proceeds derived by employee groups from the operation of such machines for employee general welfare activities pending further action in the matter by the Congress in the form of clarifying legislation as recommended in the report of this Office to the Congress, August 10, 1949, B-45101."

2. The second decision has been interpreted more broadly than its language would seem to permit. This Office (OOC Opinion 17 February 1953) checked with GAO and was informed that the opinion permitted the formation of new employee welfare groups and the operation of new vending machines. In light of this opinion agency policy was announced in W 20-660-7, 27 October 1953.

3. This position was confirmed in an OOC Opinion of 24 August 1955. This date I checked again with Mr. Lewis Ely of PBS who verified the practice. Congress has not acted on this subject.

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4. We may therefor operate vending machines in the new building for the benefit of employee welfare groups, subject to certain restrictions imposed on behalf of blind stands.

5. The Randolph-Sheppard Act (20 June 1936, as amended, 20 USCA 107) provides,

"For the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of sections 107-107f of this title shall be authorized to operate vending stands on any Federal property where such vending stands may be properly and satisfactorily operated by blind persons. In authorizing the operation of vending stands on Federal property, preference shall be given, so far as feasible, to blind persons licensed by a State agency as provided in said sections; and the head of each department or agency in control of the maintenance, operation, and protection of Federal property shall, after consultation with the Secretary, and with the approval of the President, prescribe regulations designed to assure such preference (including assignment of vending machine income to achieve and protect such preference) for such licensed blind persons without unduly inconveniencing such departments and agencies or adversely affecting the interests of the United States."

6. It should be noted that blind stands have preference over employee welfare groups in the operation of vending machines. Mr. Ely has indicated that if vending machines are so located as to take business from a blind stand, the operator thereof is entitled to the proceeds.

7. It should be recalled that Mr. Ely informed us earlier that blind stands would not be installed in any building if reasonably opposed by the head of the occupying agency.

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Assistant General Counsel

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cc: subject - New Blind File

/s/moner

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